

## REMARKS

Claims 11, 13-16 and 21-24 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

Claim 11 has been amended to include the subject matter of claim 12 along with stating that the paint is synthetically produced.

Previously pending claims 11-15 and 21-24 were rejected under 35 U.S.C. §102(b) as being anticipated by British Publication GB455408. "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a *prima facie* case of anticipation based upon the prior art. *In re Sun*, 31 U.S.P.Q.2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Applicant respectfully asserts that the Office Action has not established a *prima facie* case of anticipation with respect to the claims as amended.

Claim 11 as amended includes the subject matter of claim 12 as stated above. Since claim 12 was indicated as being anticipated by GB455408, Applicant will address the remarks relative to GB455408. Claim 11 as amended defines a method for painting of substrates with at least one coating material comprising providing at least one organic component and applying the coating material to the substrate by atomization and spraying, wherein the coating material is atomized by a water vapor and wherein the coating material is a water-based paint or an essentially solvent-free hot melt paint synthetically produced.

The prior art of record does not disclose the above-noted features of claim 11. Specifically, GB455408 does not disclose a coating material that is a water-based paint or an essentially solvent-free hot melt paint synthetically produced, along with the remaining features of claim 11. GB455408 discloses spraying of bitumen or bituminous substances by steam. Moreover, bitumen, asphalt and pitch, which are disclosed in GB455408, are natural substances or are made from natural substances, while paint or lacquer is synthetically produced. While for the natural substances, namely bitumen, asphalt and pitch, steam may be used as pressure

medium as disclosed in GB455408, since the properties of the natural substance cannot be amended and may require additional measures like the use of steam, it is not disclosed that such a method for applying bituminous substances will also be used for artificial paint or lacquer.

Since the synthetically produced paint or lacquer may be produced such that the properties of the coating material fulfill the requirements for applying in a conventional way, it is not necessary to use methods requiring more effort (production of water vapor) and causing potential difficulties with respect to the desired product. Due to the water which may be formed after cooling of the applied coating material at the painted surface, problems with respect to the quality of the painted surface may have to be expected, if the coating material is applied with water vapor.

Accordingly, water vapor was not used for painting or lacquering before the present invention. It had to be expected that the water potentially formed at the coating surface may be detrimental for the evenness of the paint layer which is normally desired during painting or lacquering.

However, such potential disadvantages may have been accepted with respect to the application of bitumen, asphalt or pitch, since no high quality surfaces are required for such layers and since the properties of such natural substances cannot be amended. Accordingly, if the difference between paint and bitumen or bituminous substances is considered, the present invention should be novel and not rendered obvious. Accordingly, claim 11 is in condition for allowance.

Claims 13-16 and 21-24 depend from claim 11, and since claim 11 defines patentable subject matter as discussed above, claims 13-16 and 21-24 define patentable subject matter. Accordingly, claims 12-16 and 21-24 are in condition for allowance. Moreover, Applicant submits that claims 21-24 are in condition for allowance for the reasons presented below.

Claim 21 depends from claim 11 and further includes atomizing and spraying the coating material onto the substrate with at least one nozzle arrangement, and providing and feeding the coating material to the nozzle arrangement with at least a first supply device, and preparing and feeding an auxiliary gas to the nozzle arrangement for atomizing the coating material with at least a second supply device, wherein the second supply device comprises a water-vapor generator. GB455408 does not disclose the nozzle arrangement, first supply device and second supply device as claimed in claim 21. For example, claim 21 states that the coating material is fed to the nozzle arrangement with at least a first supply device and feeding an auxiliary gas to

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the nozzle arrangement with at least a second supply device, wherein the second supply device comprises a water-vapor generator. Contrarily, the bituminous mass of GB455408 cannot be supplied to any nozzle without steam. Therefore, the steam cannot first be mixed with the bituminous mass at a nozzle. Moreover, GB455408 only discloses using a neutral gas at the nozzle. Accordingly, claim 21, along with claims 22-24, which depend from claim 21, are in condition for allowance.

Claim 23 depends from claims 11, 21 and 22 and further states that the pressure-increasing device is formed by reduction in cross section of a feed line. Claim 22 is drawn to the auxiliary gas that is supplied to the nozzle arrangement. Accordingly, any discussion in GB455408 to the bitumen storage tank and any feed line between the bitumen storage tank and a nozzle is irrelevant to the subject matter of claim 23. Moreover, GB455408 does not disclose how the compressed gas is delivered to the nozzle. Accordingly, GB455408 does not expressly or inherently disclose the subject matter of claim 23. Therefore, claim 23 is in condition for allowance.

Claim 24 depends from claims 11 and 21, and states that the second supply device is a heating device and/or a pressure-increasing device for converting nearly all of the water into the vapor phase. As stated above, GB455408 does not disclose any device that supplies water in a vapor phase directly to a nozzle for mixing with a coating material at the nozzle. Accordingly, GB455408 does not disclose the features of claim 24. Therefore, claim 24 is in condition for allowance.

All pending claims 11, 13-16 and 21-24 are believed to be in condition for allowance, and a Notice of Allowability is therefore earnestly solicited.

Respectfully submitted,

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